

REMARKS

The Examiner is thanked for the thorough examination of the present application. This Amendment is in response to the Office Action dated December 11, 2009. In the Office Action, claims 1-3 and 5-18 were rejected under 35 U.S.C. § 112, claims 1-3 and 5-15 were rejected under 35 U.S.C. § 102, and claims 16-18 were rejected under 35 U.S.C. § 103.

By this Amendment, claims 1, 10 and 11 are amended, and claims 12, 15 and 18 are canceled. Currently pending claims 1-3 and 5-11, 13, 14, 16 and 17 are believed allowable, with claims 1 and 10 being independent claims.

CLAIM REJECTIONS UNDER 35 U.S.C. § 112

Claims 1-3 and 5-18 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite.

By this amendment, claim 12 is cancelled. Thus, the indefinite rejection of claim 12 is moot.

Claim 1 is amended to recite, "the decision based on the primary place that corresponds to the place in which the mobile agent has executed successfully, the set of places of the next stage to which the modified mobile agent is moved, and the resulting modified mobile agent." Support for this amendment can be found at least at page 4, line 29 to page 5, line 1.

Regarding claim 10, the "means for" term has been removed for the claim.

Thus, the pending claims satisfy the requirements under 35 U.S.C. § 112, second paragraph.

CLAIM REJECTIONS UNDER 35 U.S.C. § 102

Claims 1-3 and 5-15 were rejected as anticipated under 35 U.S.C. § 102 by Rothermel et al., "A Fault-Tolerant Protocol for Providing the Exactly-Once Property of Mobile Agents", 1998 ("Rothermel"). To anticipate a claim under 35 U.S.C. §102, a reference must teach every element of the claim. MPEP 2131.

The Examiner rejected independent claims 1 and 10 as anticipated under 35 U.S.C. § 102 by Rothermel et al., "A Fault-Tolerant Protocol for Providing the Exactly-Once Property of Mobile Agents", 1998 ("Rothermel"). The MPEP § 2131 defines the standard for anticipation as follows:

The identical invention must be shown in as complete detail as is contained in the ... claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an ipsissimis verbis test, i.e., identity of terminology is not required. In re Bond, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

In other words, it is the Examiner's burden to map out a one-to-one relationship between each and every claim recitations, and the relationships between the claim recitations, and the identical elements and relationships between elements in the cited reference. If there is not identity of terminology, then it is the Examiner's burden to provide adequate support from the reference for a valid equivalency argument.

Claim 1 recites, in part, "generating a decision in each stage, the decision based on the primary place that corresponds to the place in which the mobile agent has executed successfully, the set of places of the next stage to which the

modified mobile agent is moved, and the resulting modified mobile agent." Thus, the generated decision is based on: (a) the primary place that corresponds to the place in which the mobile agent has executed successfully, (b) the set of places of the next stage to which the modified mobile agent is moved, and (c) the resulting modified mobile agent.

The Applicants submit that Rothermel does not teach or suggest a generated decision based on such three items recited in claim 1. Rothermel merely mentions, "[t]he node with the highest priority becomes the initial worker of a stage." Rothermel, page 3, col. 1, lines 12-13. There is no teaching or suggestion of generating a decision based on the primary place that corresponds to the place in which the mobile agent has executed successfully, the set of places of the next stage to which the modified mobile agent is moved, and the resulting modified mobile agent. Consequently, the anticipation rejection fails because Rothermel fails to read on all the recited elements and relationships of amended claim 1. Independent claim 10 recites elements similar to claim 1.

Accordingly, it is submitted that independent claims 1 and 10 are patentable over the prior art. Their respective dependent claims, which recite yet further distinguishing features, are also patentable over the prior art and require no further discussion herein.

In the case of an obviousness rejection, the Examiner should note that the above arguments also prove that Rothermel teaches away from the Applicant's invention, and that Rothermel's principle of operation would have to change, which is impermissible.

CONCLUSION

In view of the forgoing remarks, it is respectfully submitted that this case is now in condition for allowance and such action is respectfully requested. If any points remain at issue that the Examiner feels could best be resolved by a telephone interview, the Examiner is urged to contact the attorney below.

No fee is believed due with this Amendment, however, should a fee be required please charge Deposit Account 50-0510. Should any extensions of time be required, please consider this a petition thereof and charge Deposit Account 50-0510 the required fee.

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Respectfully submitted,

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